

Add Section 355
Title 14, California Code of Regulations (CCR)
Re: Ammunition Certification for Big Game and Nongame bird and Nongame mammal
Hunting in Condor Range

certified centerfire rifle and pistol ammunition.

Based on this section of the Fish and Game Code, the Commission adopted changes to Sections 353 and 475, Title 14, CCR that made more specific some of the above Code sections.

Section 353:

The intent of the regulation changes was to reduce the risk of indirect lead poisoning to the California condor (as well as other scavenging birds) from big game hunting activities by requiring “non-lead” projectiles. The Commission action defined “non-lead” projectiles to mean projectiles that contain only trace amounts of lead resulting from the projectile production process. The Commission established a maximum amount of lead allowable in projectiles of less than 1 percent content by weight.

The changes made:

1. Established the regulatory definition of projectile. A “projectile” is defined as any bullet, ball, sabot, slug, buckshot or other device which is expelled from a firearm through a barrel by the force of any explosion.
2. Established a maximum threshold of allowable lead in a projectile to account for trace elements present in the projectile production process. The threshold was established as less than 1 percent content by weight.
3. Established the geographic area in which non-lead projectiles would be required for big game hunting as specified in Section 3004.5 of the Fish and Game Code.
4. Established that it is unlawful to possess any projectile containing lead in excess of the amount permitted and a firearm capable of firing the projectile while taking or attempting to take any big game.

Section 475:

The intent of the regulation change was to reduce the risk of indirect lead poisoning to the California condor (as well as other scavenging birds) from nongame hunting activities by requiring “non-lead” projectiles.

The changes made:

1. Established the regulatory definition of projectile. A “projectile” is defined as any bullet, ball, sabot, slug, buckshot or other device which is expelled from a firearm through a barrel by the force of any explosion.
2. Established a maximum threshold of allowable lead in a projectile to account for trace elements present in the projectile production process. The threshold was established as less than 1 percent content by weight.
3. Established the geographic area in which non-lead projectiles would be required for nongame bird and nongame mammal hunting as specified in Section 3004.5 of the Fish and Game Code.
4. Established that it is unlawful to possess any projectile containing lead in excess of the amount permitted and a firearm capable of firing the projectile while taking or attempting to take any nongame bird or nongame mammal.
5. Established that .22 caliber rimfire cartridges used or possessed while hunting nongame birds or nongame mammals must be non-lead as defined by the Commission.

Enforcement of the projectile regulations is expected to be problematic, but the Department continues to work with the ammunition and bullet manufacturers, and other industries to develop tools to better enforce the regulations regarding non-lead projectiles.

The intent of the current proposed regulation change is to facilitate the above changes by identifying ammunition and projectiles that will be certified to meet the “non-lead” standard set by the Commission in Sections 353 and 475 of Title 14, CCR. This proposal specifically establishes a public process by which the Commission (OPTION 1) or the Department (OPTION 2) shall certify a list of centerfire rifle and pistol ammunition and projectiles that contain no lead for use when hunting big game and nongame birds and nongame mammals in condor range as specified in subsection 353(h) Title 14, CCR. This process includes the type of information the manufacturer will need to supply for certification. It also establishes that certified ammunition and projectiles will be placed on a public list to facilitate compliance by hunters. Finally, it provides for a process by which ammunition or projectiles will be removed if/when errors in certification are discovered.

The ultimate purpose of using ammunition and projectiles certified to contain no lead is to ensure that hunters are not exposing condors to secondary lead poisoning.

This proposal adds projectiles to the certification process. The statute identifies only ammunition to be certified. All ammunition is composed of an ignition source, propellant, and projectile, all of which are housed in a cartridge. Only the projectile comes into contact with the intended target and therefore is the only component of ammunition that is relevant to potential lead poisoning of condors. In addition, many hunters manufacture their own ammunition for hunting. Because the statute does not recognize these facts, the proposal must focus on certifying the projectiles to be lead free for the intended result to be realized.

Another issue that the proposed regulation repairs relative to the statute is the reality that not all big game and nongame birds and nongame mammals are taken with centerfire rifles or pistols. Currently, both muzzleloading and shotguns may be used to take these animals. However, neither are defined as centerfire rifles and pistols. This proposal makes specific that those hunters using these firearms must use projectiles certified to be lead free.

Lastly, nongame birds and nongame mammals may be taken with rimfire firearms. This proposal makes specific that those hunters using rimfire firearms for hunting nongame birds and nongame mammals must use projectiles certified to be lead free.

Failing to certify and establish a list of ammunition and projectiles that meet the standard of non-lead ammunition as identified in subsection 353(h) Title 14, CCR, would result in the loss of most hunting opportunities for big game and non-game birds and mammals in condor range.

The code requires that this process be established by July 1, 2008.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 203, and 3004.5 Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207, 2055 and 3004.5 Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:
None

- (d) Identification of Reports or Documents Supporting Regulation Change:

None

(e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings were held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No reasonable alternatives were identified.

(b) No Change Alternative:

The no change alternative would result in the Commission being out of compliance with the mandate of the Fish and Game Code as expressed in section 3004.5 and it would end most legal hunting for big game and nongame birds and nongame mammals in condor range.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective as and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures required by the Regulatory Action:

The proposed regulatory action will have no significant negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action have been assessed, and the following initial determinations regarding the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations only establish the process to certify ammunition and have no known private sector economic impacts.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None

- (h) Effect on Housing Costs:

None

Informative Digest/Policy Statement Overview

The Governor signed AB 821 into law in 2007 establishing section 3004.5 of the Fish and Game Code. This section states:

3004.5. (a) Nonlead centerfire rifle and pistol ammunition, as determined by the commission, shall be required when taking big game with rifle or pistol, as defined by Section 350 of the department's mammal hunting regulations, and when taking coyote, within the department's deer hunting zone A South, but excluding Santa Cruz, Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of Highway 101 within Santa Clara County, and areas between Highway 5 and Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern Counties, and within deer hunting zones D7, D8, D9, D10, D11, and D13. (b) By July 1, 2008, the commission shall establish, by regulation, a public process to certify centerfire rifle and pistol ammunition as nonlead ammunition, and shall define, by regulation, nonlead ammunition as including only centerfire rifle and pistol ammunition in which there is no lead content. The commission shall establish and annually update a list of certified centerfire rifle and pistol ammunition.

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